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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,733	10/03/2005	Katsumi Matsuno	SONYJP 3.3-371	4331
530 7590 01/02/2009 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER MISLEH, JUSTIN P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,733

Applicant(s)

MATSUNO ET AL.

Examiner

JUSTIN P. MISLEH

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed October 6, 2008 have been fully considered but they are not persuasive.
2. Applicant argues, "in Sun if a photo contains digital time information it is classified on the basis of such information regardless of whether or not the photo was obtained from an external device. Moreover, Sun's computer need not determine whether a photo was internally or externally created because the computer can not create a photo, and therefore any photos must necessarily be externally created."
3. The Examiner respectfully disagrees with Applicant's position. As now presented in independent Claims 1, 9, and 17 (due to their respective amendments) and as previously presented in Claims 8, 16, and 18, the Examiner regards Sun's digital camera 112 when tethered to PC 118 as the claimed information processing device and the claimed image pickup device, respectively. On this basis, Applicant's statement "Sun's computer need not determine whether a photo was internally or externally created because the computer can not create a photo, and therefore any photos must necessarily be externally created" is not necessarily true. Therefore, the rejection will be maintained.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1 – 5, 8 – 13, and 16 – 18** are rejected under 35 U.S.C. 102(e) as being anticipated by Sun et al. (US 2004/0145602 A1).

The Examiner respectfully notes Claims 1 and 9 appear to be corresponding apparatus and method claims, respectively. For the sake of brevity, they will be rejected together using the language of Claim 1.

Additionally, the Examiner respectfully notes Claims 8 and 16 appear to be corresponding apparatus and method claims, respectively. For the sake of brevity, they will be rejected together using the language of Claim 8.

Finally, the Examiner respectfully notes apparatus Claim 1 appears to fully encompass apparatus Claim 17 and apparatus Claim 8 appears to fully encompass apparatus Claim 18. For the sake of brevity, Claim 17 will be rejected together with Claims 1 and 9 using the language of Claim 1 and Claim 18 will be rejected together with Claims 8 and 16 using the language of Claim 8.

6. For **Claims 1, 9, and 17**, Sun et al. disclose, as shown in figures 1, 4, 5, and 6, an information processing device (digital camera 112 when tethered to PC 118), comprising:

determining means (404 – figure 4) for determining whether a file stored on the device (digital camera 112 when tethered to PC 118) was created by the device or was obtained from a source external to the device (see paragraph 29; “Whenever data transfer path the photograph takes, when the computer 118 receives the photograph, it stores the photograph as a photograph

image file ... [the] computer 118 then examines the photograph image file to identify the manner in which the photograph image file stores time information ... this operation includes determining whether the photograph image file includes digitally-encoded time information ... [this] would suggest that the photograph originated from the digital camera 112, or through an analogous digital device.” The Examiner notes the digital camera 112 is part of the device.);

classifying means (404 – figure 4) for classifying the file according to information concerning the date of creation (i.e., date image was captured; see paragraph 24) of the file in the case that the determining means determines that the file was created by the device (step 502 – see figure 5; also see paragraph 49), and for classifying the file according to information concerning the date the file was obtained in the case that the determining means determines that the file was obtained from a source external to the device (step 502 – see figure 5; see paragraphs 49 and 50; ; and

display control means (404 – figure 4) for displaying (step 518) a result of classification (step 502) by the classifying means on a display unit (128 – see figures 1 and 6).

7. As for **Claims 2 and 10**, Sun et al. disclose, as clearly shown in figure 6, wherein the display control means (404 – figure 4) divides a predetermined display screen (602) of the display unit (128) into a plurality of areas, assigns a date to each of the areas (604 and 606), and displays (608), as the result of the classification, the presence of a file in the area having a date corresponding to the information on the date of creation of the file or the information on the date of obtainment of the file (see paragraphs 64 – 69 for support).

8. As for **Claims 3 and 11**, Sun et al. disclose, as clearly shown in figures 5 and 6, wherein the display control means (404 – figure 4) displays the information on the date of creation of the

file or the information on the date of obtainment of the file on a predetermined display screen (602) of the display unit (128).

9. As for **Claims 4 and 12**, Sun et al. disclose, as clearly shown in figure 6, instructing means (404 – figure 4) for giving an instruction to display a list of files classified as the result of the classification on the predetermined display screen (602 – figure 6) of the display unit (128 – figure 6), wherein according to the instruction given by the instructing means, the display control means (404 – figure 4) displays the files classified by the classifying means (404 – figure 4) on the display screen (128 – figure 6) such that the file classified according to the information on the date of creation is distinguished from the file classified according to the information on the date of obtainment (Sun et al. show in figure 6 that each digital image is distinguished from one another as it is displayed. Therefore, the digital images classified according to the date of creation would be distinguished from the digital images classified according to the date of obtainment.).

10. As for **Claims 5 and 13**, Sun et al. disclose, as clearly shown in figure 6, wherein the display control means (404 – figure 4) scrolls the predetermined display screen (602) of the display unit to display the result of the classification (see paragraphs 67 – 69).

11. For **Claims 8, 16, and 18**, Sun et al. disclose, as shown in figures 1, 4, 5, and 6, an image pickup device (camera 112 tethered to computer 118), comprising:

image pickup means (112 —figure 1) for picking up an image of a subject, and for recording the image of subject as a pickup image file on a recording medium (“memory system (not shown) of computer 118” – see paragraph 27);

receiving means (scanner 120 – figure 1) for obtaining an external image file, and for recording the external image file on the recording medium (“memory system (not shown) of computer 118” – see paragraph 27);

detecting means (404 – figure 4) for detecting the external image file (scanned photos 104 and 108 – figure 1) from among image files recorded on the recording medium (see paragraphs 48 – 63 and steps 504 – 512 in figure 5);

classifying means (404 – figure 4) for classifying the pickup image file recorded on the recording medium (“memory system (not shown) of computer 118” – see paragraph 27) according to information on an image pickup date of the pickup image file (step 502 – see figure 5), and for classifying the external image file according to information on an obtainment date of the external image file (Step 502 first determines if the digital image has date and time information attached in the metadata. If it does, that digital image is classified according to the time in the metadata. If it does not, the image analyzed to determine if time information exists within the contents of the image and, if time information is present within the image content, that digital image is classified according to the time in the image content. If no time was present in the image content, the image is classified according to the time it became a digital image and was stored. See paragraph 48 – 63 and figure 5 for support); and

display control means (404 – figure 4) for displaying (step 518) a result of classification (step 502) by the classifying means on a display unit (128 – see figures 1 and 6).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 6, 7, 14, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al. (US 2004/0145602 A1) in view of Niikawa (US 6,757,479 B1).

14. As for **Claims 6 and 14**, Sun et al. do not disclose wherein the display control means changes a speed at which the predetermined display screen of the display unit is scrolled according to a quantity of files classified as the result of the classification.

On the other hand, Niikawa also disclose an apparatus for browsing through digital image files. Niikawa specifically shows, in figure 2, an apparatus (1) having a display unit (6) and display control means (5) controlling the display of images on the display unit (6). Furthermore, as shown in figures 7a, 7b, and 10, Niikawa describes a method for high-speed browsing that includes determining the browsing speed in accordance with the total number of recorded images. Therefore, Niikawa teaches wherein the display control means changes a speed at which the predetermined display screen of the display unit is scrolled according to a quantity of files classified as the result of the classification.

Hence, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included wherein the display control means changes a speed at which the predetermined display screen of the display unit is scrolled according to a quantity of files classified as the result of the classification (as taught by Niikawa) in the device and

corresponding method of operating (disclosed by Sun et al.) for the advantage of *increasing the practicality and efficiency of image browsing* (see Niikawa, column 1, lines 41 – 45).

15. As for **Claims 7 and 15**, Niikawa further teaches, as shown in figures 8(a) – 8(d), wherein when changing the speed at which the predetermined display screen of the display unit is scrolled (via jog dial 78), the display control means considers a scroll amount required to display the result of the classification to be displayed by scrolling at a predetermined position on the display screen (see amount of image data displayed per image in figures 8(a) – 8(d)).

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Justin P. Misleh/
Primary Examiner
Group Art Unit 2622
January 2, 2009**